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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/565,394	01/23/2006	Masanari Kobayashi	NS-US055263	2050
22919 7590 04/07/2009 GLOBAL IP COUNSELORS, LLP 1233 20TH STREET, NW, SUITE 700 WASHINGTON, DC 20036-2680				
EXAMINER				
PHAN, HAU VAN				
ART UNIT		PAPER NUMBER		
3618				
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Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/565,394

Applicant(s)

KOBAYASHI ET AL.

Examiner

Hau V. Phan

Art Unit

3618

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 18 February 2009.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 2,3,6-8,10-12,14-16,21 and 22 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 2,3,6-8,10-12,14-16,21 and 22 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date _____
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____

DETAILED ACTION

Claim Rejections - 35 USC § 103

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. **Claims 2-3, 6-8, 10-12, 14-16 and 21-22 are rejected under 35 U.S.C. 103(a) as being unpatentable over Nowka et al. (6,415,603) in view of Hamada et al. (5,232,989).**

Nowka et al. in figures 1-2, disclose an engine exhaust system for a vehicle, comprising at least two flexible couplings (30, 32) having elastic characteristics, positioned at two different locations in the exhaust system. The at least two flexible coupling includes an upstream flexible coupling and a downstream flexible coupling (not number, at both end of flexible couplings); an upstream component positioned (26, 12) further upstream of the upstream flexible coupling; a downstream component (52) positioned further downstream of the downstream flexible coupling and mounted to a body of the vehicle. Nowka et al. also disclose an intermediate component (34) positioned between the upstream flexible coupling and the downstream flexible coupling and having mass. The intermediate component is being coupled to the upstream component via the upstream flexible coupling and coupled to the downstream component via the downstream flexible coupling. The intermediate component is being free of direct connections to the body of the vehicle between the upstream and

downstream flexible couplings such that the intermediate component freely floats (not mounted to the vehicle body) between the upstream and downstream flexible couplings with respect to the body of the vehicle. Nowka et al. also disclose the flexible coupling. Therefore; a dynamic damper will be formed between the upstream component and the downstream component by virtue of the elastic characteristics and the mass. Nowka et al. fail to show the flexible couplings being selected to optimize the resonant frequency of the dynamic damper.

Hamada et al. in figures 1-2, teach an exhaust pipe for motor vehicle comprising first and second flexible couplings (20, 22). The first and second flexible couplings being selected such that a resonant frequency of a section formed by the upstream flexible coupling, the downstream flexible coupling, and the intermediate component is lower than 20-30Hz (col. 4, lines 5-50). It would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the engine exhaust system for a vehicle of Nowka et al. with the exhaust pipe having first and second flexible couplings being selected such that a resonant frequency of a section formed by the upstream flexible coupling, the downstream flexible coupling, and the intermediate component is lower than 20-30Hz as taught by Hamada et al. in order to reduce vibrations of the vehicle body.

Regarding claims 3, 11, 15 and 21-22, Hamada et al. teach a mass of the intermediate component, which is selected to optimize the resonant frequency of the dynamic damper.

Regarding claim 6, Nowja et al. disclose the upstream flexible coupling, which is configured and arranged to be closer to an engine than to a muffler and the downstream flexible coupling is configured and arranged to be closer to the muffler than to the engine, and the downstream component is configured and arranged to be positioned between the downstream flexible coupling and the muffler, the downstream component being configured and arranged to be mounted to the body of the vehicle.

Regarding claim 7, Hamada et al. teach the upstream flexible coupling having a first elastic characteristic and the downstream flexible coupling has a second elastic characteristic. The first and second elastic are being selected such that a resonant frequency of the section formed by the flexible couplings and the intermediate component is lower than 30Hz.

Regarding claim 8, Hamada et al. teach the intermediate component having a mass which is selected such that a resonant frequency of the section formed by the flexible couplings and the intermediate component is lower than 30 Hz.

Regarding claims 12, 16, Nowja et al. disclose each of the upstream flexible coupling and the downstream flexible coupling including a spherical joint (not number).

Response to Arguments

3. Applicant's arguments filed 2/18/2009 have been fully considered but they are not persuasive. In response to applicant's remark that the prior art can be modified does ***not*** make the modification obvious, unless an *apparent reason* exists based on evidence in the record or scientific reasoning for one of ordinary skill in the art to make

the modification. See, KSR Int'l Co. v. Teleflex Inc., 127 S.Ct. 1727, 1741 (2007). The KSR Court noted that obviousness cannot be proven merely by showing that the elements of a claimed device were known in the prior art; it must be shown that those of ordinary skill in the art would have had some "apparent reason to combine the known elements in the fashion claimed." *Id.* at 1741. The current record lacks any apparent reason, suggestion or expectation of success for combining the patents to create Applicants' unique arrangement of an engine exhaust system for a vehicle. The examiner disagrees, because in the combination of Nowka et al. in view of Hamada et al., Nowka et al. lack of spring members and Hamada et al. teach spring members. To combine or to modify is remove members (61, 62) from Nowka et al. and replace with spring members (40, 42) from Hamada et al. for reducing vibration of the vehicle body.

Conclusion

4. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of

the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Hau V. Phan whose telephone number is 571-272-6696. The examiner can normally be reached on 7:30AM-4:00PM.

The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Hau V Phan/
Primary Examiner, Art Unit 3618